IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 4695 OF 2007

ALONGWITH

WRIT PETITION NO. 4696 OF 2007

Rohidas M. BHoir .... Petitioner

versus

Tahasildar, Ambernath & ors..... Respondent.

Shri R.S.Datar for the petitioner.

CORAM; A.P. DESHPANDE, J.
DATED; 20TH JUNE, 2007

P.C.;

1. The petitioner in W.P.No.4695 is an elected upa-sarpanch and the petitioner in W.P.4696 is an elected sarpanch. Both the petitioners are removed as motion of No Confidence was carried by the requisite majority of 2/3rd. The notice of No Confidence motion was served on Tahasildar and he convened the meeting within the stipulated period. In the meeting five members out of total seven were present, barring the present petitioners. The motion has been carried five vs. two i.e. carried by 2/3 majority. Aggrieved thereby the petitioners have filed dispute before the Collector, and the Collector after examining the records has rejected the dispute. Thereafter an appal

was filed by the petitioners before the Commissioner and the Commissioner has dismissed the appeals and hence the present writ petitions are filed.

2. The learned counsel for the petitioner submits that the proceedings of the meeting were taken up in breach of principles of natural justice in as much as the petitioner was not offered an opportunity to make his submissions in the meeting. Perusal of the minutes of the meeting placed on record clearly reveal that the meeting was called to order at 4'O clock when five members were present and the present petitioners were not present. In the absence of the petitioners the proceedings of the meeting had commenced. The minutes of the proceedings reveal that the petitioners reached the venue late. It is categorically recorded in the minutes of the meeting by Tahasildar that the petitioner had addressed the meeting by contending that all the members had demanded Rs. one lakh each and as the petitioners did not pay the amount, the motion of No Confidence has been moved against them. If this be the position, the grievance made by the petitioner is ill-founed in as much as the petitioners were permitted to speak in the meeting and they have put forth their view points. Both the authorities below have rightly held that the petitioners weree permitted to speak in the meeting.

3. It is next contended that the composite motion of No Confidence cannot be brought against the sarpanch and upa-sarpanch. The relevant provision of section 35 does not in any manner prevent such a composite notice being served against a sarpanch and upa-sarpanch. Hence there is no merit in the submission.

4. Perused the impugned orders. The same does not suffer from any illegality as five out of seven members have voted in favour of the No Confidence motion. The same is validly carried out. There being no merit in the petitions, the same are summarily dismissed.

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